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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,868	10/18/2001	Bernd Bienek	12758-025001	8008

7590 01/26/2005

Fish & Richardson  
225 Franklin Street  
Boston, MA 02110-2804

EXAMINER
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GANTT, ALAN T

ART UNIT	PAPER NUMBER
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2684

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/787,868

**Applicant(s)**

BIENEK ET AL.

**Examiner**

Alan T. Gantt

**Art Unit**

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 64-79 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 64-71, 73 and 75-79 is/are allowed.
- 6) ☒ Claim(s) 72 and 74 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>83004</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

The applicant has elected Group 1 for examination and has since amended those claims and canceled the original Group 1 claims.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 72 recites the limitation "the terminal of claim 64, where the calculation stage" in line 1. There is insufficient antecedent basis for this limitation in the claim.

### ***Allowable Subject Matter***

Claims 64-71 and 73-79 are allowed

The following is a statement of reasons for the indication of allowable subject matter:

Regarding claim 64, a control unit that is programmable over a wireless interface to actuate the microswitches or microrelays and to set a predetermined value of a functional parameter was neither found, suggested, nor made evident by the prior art.

Regarding claim 75, as related to a mobile phone the deactivating of the transmitter stage before the actuation signal is transmitted to a microswitch configuration, or microrelay configuration or a micromotor.

Art Unit: 2684

*Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bozler et al. discloses a microelectro-mechanical system actuator device and reconfigurable circuits utilizing the actuator device.

Dhuler et al. discloses a method of fabricating a microelectro-mechanical structure having an arched beam.

Larsson et al. discloses a method and system for tuning resonance modules.

Any inquiry concerning this communication from the examiner should be addressed to Alan Gantt at telephone number (703) 305-0077. The examiner can normally be reached between 9:30 AM and 6 PM within the Eastern Time Zone. The group FAX number is (703) 872-9306.

Any inquiry of a general nature or relating to this application should be directed to the group receptionist at telephone number (703) 305-4700.



Alan T. Gantt

January 21, 2005



**NICK CORSARO**  
**PRIMARY EXAMINER**